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Patrick Rankin to: Ben Harrison, Tina Arnold, Jeannine Hale,
Ray Leissner, Philip Dellinger

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From: Patrick Rankin/R6/USEPA/US

To: Ben Harrison/R6/USEPA/US@EPA, Tina Arnold/R6/USEPA/US@EPA, Jeannine Hale/R6/USEPA/US@EPA, Ray Leissner/R6/USEPA/US@EPA, Philip Dellinger/R6/USEPA/US@EPA

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Daily News

EPA Weighs Revisions For Granting 'Aquifer Exemptions' For UIC Wells

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EPA is weighing revisions to its policy for determining whether to exempt aquifers that are deemed unfit sources of drinking water from protection under its underground injection control (UIC) program, a move that could have far-reaching implications across a host of operations, including those for mining, drilling, waste disposal and carbon capture.

"Right now, EPA is reviewing the [internal] discussion about how to do aquifer exemptions, but there's no certainty and a lot of debate," an EPA source says, adding that no final decisions have been reached.

Though one industry source says that EPA has historically tended to rubber-stamp requests for aquifer exemptions, the agency has dug in its heels in three recent UIC permit fights over whether to exempt certain aquifers to clear the way for approval of two uranium extraction projects in Wyoming and one in Texas.

But state officials in Texas are already resisting EPA calls to require additional modeling to determine potential contamination risks to the aquifer, leading to a stalemate over the exemption request. In a recent letter to EPA, Texas officials disputed the agency's "novel interpretation" of the aquifer exemption requirements, and asked EPA to continue to process the proposal without the requested additional modeling.

One industry source says EPA officials in Region VIII who are reviewing the Wyoming permits recently indicated they would grant the aquifer exemption in a forthcoming *Federal Register* notice, which would include some guidance on their reasoning and "will have implications for other projects."

The agency source says officials have been "very active" in the Wyoming and Texas permit disputes, adding that the three projects have stalled mainly because of the policy revisions EPA is weighing related to the exemptions.

Agency officials have also recently required California officials to strengthen their threshold for

determining whether an aquifer could be used for drinking water, requiring the state to raise its threshold to 10,000 milligram/liter (mg/L) of total dissolved solids (TDS) from 3,000 mg/L.

One informed source says the debate is being driven by EPA's recent rule creating a new class of UIC wells for carbon capture and storage (CCS) operations, a key method for addressing greenhouse gas emissions which involves injection of larger volumes of material than other injection practices.

But the informed source says agency discussions have long centered around whether the 10,000 mg/L threshold should be revised, especially factoring in improving treatment technology, particularly in the context of CCS projects, because those deal with extremely high-volume injections.

State groundwater regulators and EPA officials discussed the aquifer exemption issues at a closed Sept. 27 roundtable session held in Atlanta during the annual Ground Water Protection Council (GWPC) meeting.

The Safe Drinking Water Act (SDWA) generally prohibits waste disposal, mining, energy production or other activities which involve injection into underground sources of drinking water (USDWs). But the statute allows for EPA to grant an exemption where the aquifer, which may otherwise be considered a USDW, does not currently serve as a source of drinking water and cannot do so in the future, either because of contamination or because its location makes recovery economically or technologically impractical.